

1  
2  
3  
4  
5  
6  
7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE EASTERN DISTRICT OF CALIFORNIA

9 EVANSTON INSURANCE  
10 COMPANY,

11 Plaintiff,

No. CIV S-02-1505 DFL PAN

12 vs.

13 OEA, INC. and DOES 1 through 20,  
14 inclusive,

15 Defendants.

ORDER

16 AND RELATED CROSS-CLAIMS.  
17

18 A telephonic status conference was held in this matter on July 18, 2006, at 2:30  
19 p.m. John Viola appeared telephonically for defendant OEA. Andrew Timothy Houghton  
20 appeared telephonically for counter-defendant Certain Underwriters at Lloyd's of London. Upon  
21 discussion of counsel and good cause appearing therefor, THE COURT FINDS AND ORDERS  
22 AS FOLLOWS:

23 By order filed June 13, 2006, defendant OEA's motion for issuance of letters  
24 rogatory was granted and a letter of request was issued. On July 6, 2006, the Senior Master of  
25 the Queen's Bench Division of the Supreme Court of England and Wales returned the letter of  
26 request noting certain deficiencies. This court subsequently directed defendant OEA to submit a  
proposed revised letter of request that complied with the requirements of the English court.

1           However, on July 14, 2006, the Foreign Process Section of the Royal Courts of  
2 Justice Group for the Queen's Bench Division notified this court that the July 6, 2006 order was  
3 issued in error and that the examination had been rescheduled to proceed on August 22, 2006.

4           Although the discovery deadline expired on July 12, 2006, OEA's motion to  
5 compel this foreign examination was timely filed and the examination initially scheduled for July  
6 11, 2006, was within the discovery period. It appears the examination failed to proceed due to  
7 what the Queen's bench called a clerical error. Good cause appearing, the court will vacate its  
8 order requiring further briefing on the form of the letter of request. The discovery deadline is  
9 extended to accommodate the August 22 deposition, and for a brief period thereafter if needed to  
10 complete the deposition. Counsel shall proceed with the August 22, 2006 examination as  
11 presently set by the English court. Counsel were cautioned that, in the event that either of them  
12 came to believe that the content of the examination could impact the scheduled argument on the  
13 summary judgment motion, they must address that question directly with the District Court as  
14 soon as they become aware of it.

15           IT IS HEREBY ORDERED that:

- 16           1. The July 17, 2006 order is vacated;  
17           2. The discovery deadline is extended to accommodate the August 22, 2006  
18 examination; and  
19           2. The August 22, 2006 examination shall proceed as ordered by the court in  
20 London..

21 DATED: July 18, 2006.

22  
23   
24 UNITED STATES MAGISTRATE JUDGE

25 /001;evanston.vac  
26